



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



324770

MAR 27 2009

REPLY TO THE ATTENTION OF:

General Industries Site (SE-5J)

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

B-Vest Properties, LLC
c/o John N. Peshek
154 Olive Street
Elyria, OH 44035

B-Vest Properties, LLC
c/o John N. Peshek
355 Quail Hollow Court
Pickerington, OH 43147

RE: General Industries Site, Elyria, Lorain County, Ohio
General Notice of Potential Liability

Dear Mr. Peshek:

The United States Environmental Protection Agency ("U.S. EPA") has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from the above-referenced Site and is planning to spend public funds to control and investigate these releases. U.S. EPA will take this action pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §9601 et seq., ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613 (1986) ("SARA"), unless U.S. EPA determines that such action will be done properly by a responsible party or parties. Responsible parties under CERCLA include the current and former owners and operators of the facility, persons who generated the hazardous substances, and persons who were involved in the transport, treatment, or disposal of the hazardous substances at the facility. Under Section 107(a) of CERCLA, 42 U.S.C. §9607(a), where U.S. EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the Site, including investigation, planning and enforcement costs.

U.S. EPA is currently planning to conduct the following actions at the above-referenced Site:

1. Develop and implement a Site Health and Safety Plan to include a perimeter air sampling plan and measures to control asbestos-containing material (ACM) during the cleanup;
2. Perform extent-of-contamination investigations to determine what material must be disposed of as ACM debris;
3. Excavate, load, transport, and dispose of all readily identifiable ACM debris, or contaminants, at an U.S. EPA-approved disposal facility in accordance with U.S. EPA's Off-Site Rule (40 CFR §300.440);

4. Evaluate drums and tanks on site for contents of hazardous substances, and dispose of the material at an U.S. EPA-approved disposal facility in accordance with U.S. EPA's Off-Site Rule (40 CFR §300.440);
5. Stabilize the remaining material to ensure no off-site migration of contaminants; and
6. Take any necessary response action to address any release or threatened release of a hazardous substance, pollutant, or contaminant that U.S. EPA determines may pose an imminent and substantial endangerment to the public health or the environment.

U.S. EPA has received information that B-Vest Properties, LLC (B-Vest) may have owned or operated or generated or transported hazardous substances that were disposed of at the facility. By this letter, U.S. EPA notifies B-Vest of its potential liability with regard to this matter and encourages B-Vest, as a potentially responsible party, to reimburse U.S. EPA for costs incurred to date and to voluntarily perform or finance the response activities that U.S. EPA has determined or will determine are required at the Site. U.S. EPA is willing to discuss with you the entry of an appropriate administrative consent order under which B-Vest would perform or finance response activities and reimburse U.S. EPA for its costs. If a consent order cannot be promptly concluded, U.S. EPA may issue a unilateral order under Section 106 of CERCLA, requiring you to perform specified work. Under Sections 106 and 107 of CERCLA, B-Vest may be liable for reimbursement of U.S. EPA's costs, for statutory penalties, and for treble damages for noncompliance with such an order. If B-Vest is a qualified small business, enclosed is an U.S. EPA Small Business Regulatory Enforcement Fairness Act information sheet, which may be helpful if B-Vest is subject to an U.S. EPA enforcement action.

Because of the conditions described above, U.S. EPA believes that response activities at the Site must be initiated as quickly as possible. Therefore, U.S. EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

As a potentially responsible party, you should notify U.S. EPA in writing within ten [10] days of receipt of this letter of your willingness to perform or finance the activities described above and to reimburse U.S. EPA for its costs. Your response should be sent to:

U.S. EPA - Region 5
Attn.: Sally Jansen
Emergency Enforcement Services Section SE-5J
77 West Jackson Boulevard
Chicago, Illinois 60604

If U.S. EPA does not receive a timely response, U.S. EPA will assume that B-Vest does not wish to negotiate a resolution of its potential responsibility in connection with the Site and that it has declined any involvement in performing the response activities.

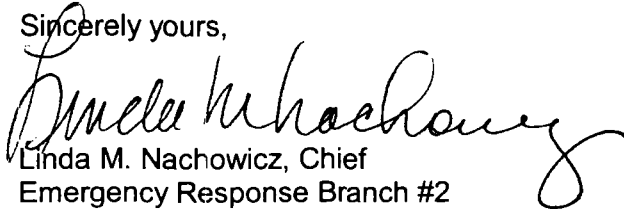
Your response should indicate the appropriate name, address, and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in voluntary cleanup action, or involved in a lawsuit regarding this Site, you should continue such activities as you see fit. This letter is not intended to advise you or direct you to

restrict or discontinue any such activities; however, you are advised to report the status of those discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

If you need further information regarding this letter, you may contact Nola Hicks of the U.S. EPA Office of Regional Counsel at (312) 886-7949.

Due to the nature of the problem at this Site and the attendant legal ramifications, U.S. EPA strongly encourages you to submit a written response within the time frames specified herein. We hope you will give this matter your immediate attention.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Linda M. Nachowicz", written over the typed name and title.

Linda M. Nachowicz, Chief
Emergency Response Branch #2

Enclosure



Office of Enforcement and Compliance Assurance

INFORMATION SHEET

U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance resources such as workshops, training sessions, hotlines, websites, and guides to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance, and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Compliance Assistance Centers

(www.assistancecenters.net)

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers that provide information targeted to industries with many small businesses.

Agriculture

(www.epa.gov/agriculture or 1-888-663-2155)

Automotive Recycling Industry

(www.ecarcenter.org)

Automotive Service and Repair

(www.ccar-greenlink.org or 1-888-GRN-LINK)

Chemical Industry

(www.chemalliance.org)

Construction Industry

(www.cicacenter.org or 1-734-995-4911)

Education

(www.campuserc.org)

Healthcare Industry

(www.hercenter.org or 1-734-995-4911)

Metal Finishing

(www.nmfrf.org or 1-734-995-4911)

Paints and Coatings

(www.paintcenter.org or 1-734-995-4911)

Printed Wiring Board Manufacturing

(www.pwbrf.org or 1-734-995-4911)

Printing

(www.pneac.org or 1-888-USPNEAC)

Transportation Industry

(www.transource.org)

Tribal Governments and Indian Country

(www.epa.gov/tribal/compliance or 202-564-2516)

US Border Environmental Issues

(www.bordercenter.org or 1-734-995-4911)

The Centers also provide State Resource Locators (www.envcap.org/statetools/index.cfm) for a wide range of topics to help you find important environmental compliance information specific to your state.

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page

www.epa.gov

Small Business Gateway

www.epa.gov/smallbusiness

Compliance Assistance Home Page

www.epa.gov/compliance/assistance

Office of Enforcement and Compliance Assurance

www.epa.gov/compliance

Voluntary Partnership Programs

www.epa.gov/partners



U.S. EPA SMALL BUSINESS RESOURCES

Hotlines, Helplines & Clearinghouses

(www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. A few examples are listed below:

Clean Air Technology Center

(www.epa.gov/ttn/catc or 1-919-541-0800)

Emergency Planning and Community Right-To-Know Act

(www.epa.gov/superfund/resources/infocenter/epcra.htm or 1-800-424-9346)

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information.
(www.epa.gov/sbo or 1-800-368-5888)

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers
(www.epa.gov/clearinghouse)

National Response Center to report oil and hazardous substance spills.
(www.nrc.uscg.mil or 1-800-424-8802)

Pollution Prevention Information Clearinghouse

(www.epa.gov/opptintr/ppic or 1-202-566-0799)

Safe Drinking Water Hotline

(www.epa.gov/safewater/hotline/index.html or 1-800-426-4791)

Stratospheric Ozone Refrigerants Information

(www.epa.gov/ozone or 1-800-296-1996)

Toxics Assistance Information Service also includes asbestos inquiries.
(1-202-554-1404)

Wetlands Helpline

(www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828)

State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information or the following two resources:

EPA's Small Business Ombudsman

(www.epa.gov/sbo or 1-800-368-5888)

Small Business Environmental Homepage

(www.smallbiz-enviroweb.org or 1-724-452-4722)

Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated,

businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses:

The Small Business Compliance Policy

(www.epa.gov/compliance/incentives/smallbusiness)

Audit Policy

(www.epa.gov/compliance/incentives/auditing)

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an SBA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees, or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.